

1                   BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD  
2                   CENTRAL PUGET SOUND REGION  
3                   STATE OF WASHINGTON  
4

5 JANET WOLD, et al.,  
6

7                   Petitioners,  
8

9                   v.  
10

11 CITY OF POULSBO,  
12

13                   Respondent.  
14

**CASE NO. 10-3-0005c**

**(Wold)**

**ORDER DENYING  
RECONSIDERATION**

15 This matter comes before the Board on Petitioners' motion for reconsideration of the Final  
16 Decision and Order (FDO) issued August 9, 2010.<sup>1</sup> The City filed an answer in opposition to  
17 reconsideration.<sup>2</sup>  
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19 WAC 242-02-832(2) provides:

20 A motion for reconsideration shall be based on at least one of the following grounds:

- 21       (a) Errors of procedure or misinterpretation of fact or law, material to the party seeking  
22       reconsideration;  
23       (b) Irregularity in the hearing before the board by which such party was prevented from  
24       having a fair hearing; or  
25       (c) Clerical mistakes in the final decision and order.  
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28 Petitioners assert that the FDO contained misinterpretations of fact and law that justify  
29 reconsideration of the matter. In particular, Petitioners argued that the Board erred with  
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32 <sup>1</sup> Petitioners' Motion for Reconsideration, August 19, 2010.

<sup>2</sup> City's Answer to Motion for Reconsideration, August 26, 2010.

1 respect to the ruling of the Court of Appeals in *Suquamish Tribe v. Central Puget Sound*  
2 *Growth Management Hearings Board*, Docket No. 39017-5-II (Slip. Op. July 7, 2010).

3  
4 Petitioners request the Board to reconsider its decision and require the City to raise its  
5 minimum densities. Alternatively, the Petitioners request that the Board require the City to  
6 revise its Land Capacity Analysis methodology to reflect achieved densities rather than  
7 minimum zoned densities. The Petitioners argue that without these remedies, proper  
8 application of the *Suquamish Tribe* decision on remand will be precluded.<sup>3</sup>  
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10 Answering the motion, the City asserts Petitioners made these same arguments in their  
11 previous briefs, and a motion for reconsideration is not simply an opportunity to reargue a  
12 case.<sup>4</sup> Further, the City contends that the FDO does not preclude a range of actions on  
13 remand of *Suquamish Tribe*.<sup>5</sup>  
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15 The Board notes that the Court of Appeals ruling in *Suquamish Tribe* was issued on July 7,  
16 2010, two weeks after the Hearing on the Merits in this case. However, the Board granted  
17 the parties an opportunity to provide supplemental briefing, and the briefs of all the parties  
18 were taken into consideration in the Final Decision and Order.<sup>6</sup>  
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21 Upon consideration, the Board finds no misinterpretation of fact or law or other error or  
22 irregularity requiring reconsideration of the FDO.<sup>7</sup> The motion is **denied**.  
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27 <sup>3</sup> Petitioners' Motion, at 1, 6.

28 <sup>4</sup> City Answer, at 4, citing *Petso v. City of Edmonds*, CPSGMHB Case No. 09-3-0005, Order Denying  
29 Reconsideration (Sep. 4, 2009), at 1.

30 <sup>5</sup> City Answer, at 7-9.

31 <sup>6</sup> Petitioners Wold and Cellucci's Supplemental Brief Regarding Court of Appeals Decision in *Suquamish Tribe*  
32 *v GMHB*, July 19, 2010; Petitioners John and Molly Lee's Supplemental Brief Regarding Court of Appeals  
Decision in *Suquamish Tribe v. CPSGMHB*, July 19, 2010; City of Poulsbo's Supplemental Brief on the Impact  
of the Court of Appeals' Ruling in *Suquamish Tribe v CPSGMHB*, July 19, 2010.

<sup>7</sup> The Board notes that both the Motion for Reconsideration and the City's Answer assert facts outside the  
record.

1 **ORDER**

2 The Board ORDERS:

- 3 • Petitioners' Motion for Reconsideration of the August 9, 2010 Final Decision and  
4 Order in this case is **denied**.<sup>8</sup>

5 DATED this 3rd day of September, 2010.  
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9 David O Earling, Board Member  
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12 Margaret A. Pageler, Board Member  
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27 <sup>8</sup> Pursuant to RCW 36.70A.300 this is a final order of the Board.

28 Judicial Review. Any party aggrieved by a final decision of the Board may appeal the decision to superior court as  
29 provided by RCW 36.70A.300(5). Proceedings for judicial review may be instituted by filing a petition in superior  
30 court according to the procedures specified in chapter 34.05 RCW, Part V, Judicial Review and Civil Enforcement.  
31 The petition for judicial review of this Order shall be filed with the appropriate court and served on the Board, the  
32 Office of the Attorney General, and all parties within thirty days after service of the final order, as provided in RCW  
34.05.542. Service on the Board may be accomplished in person or by mail, but service on the Board means  
actual receipt of the document at the Board office within thirty days after service of the final order. A petition for  
judicial review may not be served on the Board by fax or by electronic mail.

Service. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19)